

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES BRITTINGHAM,

Plaintiff,

No. CIV S-04-0037 LKK DAD P

vs.

HIGH DESERT STATE PRISON, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding pro se with a civil rights action seeking relief pursuant to 42 U.S.C. § 1983. Plaintiff's amended complaint filed November 15, 2004, was served on defendant R. Sandham, M.D. On February 28, 2005, defendant Sandham filed and served an answer to the amended complaint. The answer bears the name, address, and telephone number of defendant's counsel. The docket for this action shows that since February 28, 2005, plaintiff has filed two motions, a prayer for injunctive relief, and more than ten letters. Not one of plaintiff's filings includes a proof of service reflecting that the document was served on defendant's counsel.

Plaintiff is advised that every document he submits to the court for consideration must be served on defendant's counsel and must include proof of such service. See Fed. R. Civ. P. 5; Local Rule 5-135. A proof of service must indicate the name of the document served, the

1 date on which an accurate copy of the document was placed in the mail, and the complete name
2 and address of the attorney to whom the document was mailed. See Local Rule 5-135(b) and (c).
3 The court will not entertain motions, requests, and applications that have not been served on
4 opposing counsel. Plaintiff's motions filed March 14, 2005, and June 30, 2005, and prayer for
5 injunctive relief filed October 17, 2005, will be denied without prejudice to the filing of properly
6 supported motions that include proper proof of service. Plaintiff is cautioned that sanctions may
7 be imposed for failure to include a proper proof of service with any document subsequently filed
8 in this action.

9 On November 15, 2004, plaintiff was advised that "filings must be properly
10 captioned with the name of the court, the names of the parties, the case number, and a title that
11 reflects the nature and purpose of the document, such as 'Notice of Change of Address' or
12 'Request for Court Assistance with Service.'" (Order filed Nov. 15, 2004, at 3.) Despite the
13 court's instructions, plaintiff has continued to submit letters that are not captioned with the name
14 of the court, the names of the parties, the case number, and a title reflecting the nature and
15 purpose of the document. Many of the letters request injunctive relief but fail to comply with the
16 requirements of Local Rule 65-231.¹ None of plaintiff's letters include proof of service on
17 defendant's counsel. All such letters will be disregarded.

18 Accordingly, IT IS HEREBY ORDERED that:

19 1. Plaintiff's March 14, 2005 motion for a leave of absence from prison in order
20 to obtain evidence (docket #28) is denied without prejudice;

21 2. Plaintiff's June 30, 2005 motion for reconsideration and for injunctive relief
22 (#38) is denied without prejudice;

23
24 ¹ On December 27, 2004, plaintiff was referred to Local Rule 65-231, which describes
25 the requirements for requests for injunctive relief, and was advised that "[a]ny request or motion
26 for injunctive relief must be served on the affected parties, must include a brief on the legal
issues presented by the motion, and must be supported by one or more affidavits demonstrating
the existence of an irreparable injury if the request or motion is not granted." (Order filed Dec.
27, 2004, at 2.)

1 3. Plaintiff's October 17, 2005 prayer for injunctive relief (#43) is denied without
2 prejudice; and

3 4. Plaintiff's letters filed March 21, 2005 (#29); March 23, 2005 (#30); March 30,
4 2005 (#31); April 18, 2005 (#32); May 2, 2005 (#33); May 25, 2005 (#35); June 23, 2005 (#37);
5 August 1, 2005 (#39); September 6, 2005 (#40); October 4, 2005 (#41); and October 7, 2005
6 (#42) will be disregarded.

7 DATED: October 26, 2005.

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9 _____
10 DALE A. DROZD
11 UNITED STATES MAGISTRATE JUDGE

10 DAD:13:kf
11 brit0037.35